

IDAHO LEGISLATIVE ACTION PACKET

PURPOSE: ADVOCATING CHANGE TO IDAHO LAWS TO BETTER PROTECT CHILDREN AND FAMILIES FROM FRAUD AND ABUSE.

Idaho offers two options for direct citizen legislative action. Idahoans can file initiatives and referendums.

For our purposes, an initiative is most appropriate because its purpose is to create or change existing laws. Referendums are for repealing laws.

Steps to take in changing Idaho's laws:

1. Download Idaho's Initiative and Referendum Instructions from <http://www.sos.idaho.gov/elect/inits/initinst.htm> or e-mail info@heal-online.org with subject "Idaho's Initiative Guide" and we will send you a copy. Follow the guidelines in the handbook and contact the Office of the Secretary of State for help.
2. You may wish to set up a Political Action Committee (PAC) in support of your initiative so you can publicize your campaign and gain additional support. For more information on this process, visit <http://www.sos.idaho.gov/elect/finance.htm>.
3. You can see an example of an initiative filed in ID by visiting <http://www.sos.idaho.gov/elect/inits/2010init01.htm> or e-mailing info@heal-online.org with subject "Idaho Initiative and Referendum Examples".

CHILDREN AND YOUTH'S BILL OF RIGHTS

HEAL recommends that the following children and youth's bill of rights be enacted into law in all States:

1. No child shall be involuntarily placed in a secured, lockdown facility without due process of law. (US Constitution, 14th Amendment—law supported by Supreme Court Rulings in Bellotti v. Baird (1979) U.S. Supreme Court and Ingraham v. Wright (1977) U.S. Supreme Court)
2. No child shall be forced to act as Staff or perform the duties of an employee of any institution involuntarily. (US Constitution, 13th Amendment—law supported by Supreme Court Ruling in Tinker v. Des Moines Independent School District (1969) U.S. Supreme Court)

3. No child shall be forced to act as Staff or perform the duties of an employee of any institution without fair compensation (i.e. minimum wage). (US Constitution, 13th Amendment- law supported by Supreme Court Ruling in Tinker v. Des Moines Independent School District (1969) U.S. Supreme Court)

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Statute of Limitations Suggested Revision(s)

Idaho should include kidnapping in list of offenses with no statute of limitations.

HEAL recommends Idaho Code § 19-402 be amended to include kidnapping in the list of offenses having no Statute of Limitations.

Alaska provides one example of a State that includes kidnapping, rape, and sexual abuse in the list of offenses that have no Statute of Limitations for prosecution. (Source: ALASKA STAT. § 12.10.010)

HEAL recommends Idaho revise Idaho Code § 5-219 to extend the Statute of Limitations for child victims to file suit upon reaching age of majority. HEAL recommends child victims be given 20 years from time of injury or 15 years upon reaching age of majority to file a tort claim against the tortfeasor.

Alternatives to the above extension of time to file a claim for injured minors include judicial system providing accessible and competent attorneys required to represent minors on a contingency basis with no fees due unless case is won and amount to be paid to attorney may not exceed 50% of the damages and 50% total must include all attorney fees and expenses.

Child Abuse Laws Suggested Revision(s)

HEAL recommends Idaho revise its child abuse statutory definitions to include the following:

Emotional Abuse

Citation: Ann. Stat. § 9:6-8.21 (New Jersey Statutory Definition)

Abused child or abused or neglected child means a child under age 18 years who is in an institution, and:

- Has been placed there inappropriately for a continued period of time with the knowledge that the placement has resulted or may continue to result in harm to the child's mental or physical well-being
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- Who has been willfully isolated from ordinary social contact under circumstances that indicate emotional or social deprivation

The definitions and laws pertaining to child abuse and/or endangering the welfare of a child in Idaho are found in Idaho Code § 16-1602. Please amend Idaho's laws to include the above definitions as applied under our Child Endangerment, Child Welfare, and Child Abuse laws.

In addition, HEAL recommends that the definition of Abandonment be added to Idaho's Child Endangerment Laws at § 16-602 and/or §18-1501 and defined as in the following Kansas Statute:

Kansas § 38-2202. Definitions. "As used in the revised Kansas code for care of children, unless the context otherwise indicates: "Abandon" or "abandonment" means to forsake, desert or, (a) without making appropriate provision for substitute care, cease providing care for the child."

HEAL recommends that "appropriate provision for substitute care" be limited to the least restrictive environment within the child's community of residence and/or within the State of Idaho if institutionalization is required.

****Special Note: Unlicensed Facilities**

HEAL recommends that Idaho amend current residential child care licensing standards found at § 39-1210 to include the same code/law as Arkansas in regards to unlicensed facilities. Arkansas has the best law regarding unlicensed child care facilities.

Arkansas' Ann. Code § 20-78-208. Unlicensed child care facility unlawful.

(a) It shall be unlawful for any person, partnership, group, corporation, organization, or association to operate or assist in the operation of a child care facility which has not been licensed by the Division of Child Care and Early Childhood Education.

(b) It shall be unlawful for any person to falsify an application for licensure, to knowingly circumvent the authority of the Child Care Facility Licensing Act, 20-78-201 et seq., to knowingly violate the orders issued by the division, or to advertise the provision of child care which is not licensed or approved or exempt by the division.

(c) A violation of this section shall be a Class C misdemeanor.

Faith-Based Exemptions Suggested Revision(s)

Idaho has no faith-based exemption that extends to residential programs for children and youth. HEAL sees no issue with Idaho's current law in regard to faith-based providers.

Educational Consultants/Referral Services Suggested Revision(s)

HEAL recommends that Idaho establish professional guidelines and professional licensure standards and certification requirements for any individual engaging in a business of making referrals to any mental health or educational institution.

Teen/Youth Transport Services Suggested Revision(s)

HEAL recommends that Idaho establish professional guidelines and professional licensure standards and certification requirements for any individual or business engaging in involuntary transport of youth for mental health, behavioral health, medical care, and/or educational purposes. HEAL recommends that anyone engaged in such a business at minimum be required to be licensed Emergency Medical Technicians (EMTs) with ambulance driver certification with special licensing/certification requirements for transport services taking children across state lines. HEAL recommends that only law enforcement personnel engaged in transporting adjudicated youth who have been court-ordered to a secured treatment facility be permitted to transport youth across state lines for such purposes and that private placements of youth be outlawed as we recommend all youth be recognized as having the right to due process when enrollment/placement violates a minor's civil liberty interests.

Seclusion and Restraint Suggested Revision(s)

HEAL suggests Idaho amend State laws regarding seclusion and restraint of children to match Sen. Harkin's (D-IA) and Rep. Miller's (D-CA) Keeping All Students Safe Act of 2011 (S. 2020, H.R. 1381).

Reparative/Conversion Therapy Revision(s)

HEAL suggests that Idaho enact a law similar to California's law banning reparative/conversion therapy on children and youth. HEAL believes the methods involved in reparative/conversion therapy are inhumane and harmful whether or not they are used to change sexual/sexual orientation behavior or any legal behavior or beliefs that may not align with those of families or service providers seeking to use coercive thought reform/conversion therapy techniques to change behavior. See http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201120120SB1172 for more information.

Facilities and Occupational and Professional Licensure Database Revision(s)

HEAL recommends that Idaho adopt Arizona's system for verifying facility licensure and checking for disciplinary reports. Arizona provides the most user-friendly searchable database on licensed facilities and the database includes inspection and complaint records. See <http://hsapps.azdhs.gov/ls/sod/SearchProv.aspx?type=BH>. Idaho should upgrade its facility license verification and disciplinary database so it is more accessible to consumers.

Idaho's current occupational licensure verification system (<https://secure.ibol.idaho.gov/eIBOLPublic/LPRBrowser.aspx>) does not include all professions requiring professional licensure (i.e. fails to include nurses, medical doctors, etc.) and for some professions separate boards must be contacted for verification. It would improve consumer access to include all professions requiring licensure in a single verification system such as found in Utah. See <https://secure.utah.gov/llv/search/index.html>.

HEAL recommends that Idaho either include educator/teacher license verification with the overall professional licensure verification recommended above or continue to provide the current online searchable database for verifying educator licensing found here: https://www.sde.idaho.gov/site/teacher_certification/CertLookUp_offline.htm.

The above measures would help Idaho protect consumers from fraud and abuse by making such information easily accessible.

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